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7 *Attorneys for Defendants*

8  
9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
11  
12

13 **SEAN KENSINGER,**

14 Plaintiff,

15 v.

16 **CALIFORNIA HIGHWAY PATROL, et**  
17 **al.,**

18 Defendants.  
19  
20

C 11-00885

**DECLARATION OF AMY W. LO IN  
SUPPORT OF MOTIONS FOR  
SUMMARY JUDGMENT AND FOR  
PARTIAL SUMMARY JUDGMENT OF  
CERTAIN CLAIMS AND ITEMS OF  
DAMAGES**

Date: June 7, 2012  
Time: 2:00 p.m.  
Courtroom: 8 (19th Floor)  
Judge: Honorable William Alsup

Trial Date: June 25, 2012

21  
22  
23 I, AMY W. LO, declare that I make this declaration based upon my personal knowledge, I  
24 am competent to testify to all matters stated herein, and if called and sworn as a witness in this  
25 matter, I would testify as follows:

26 1. I am an attorney admitted to practice before the courts of the State of California  
27 and before this Court. I am currently employed as a Deputy Attorney General by the California  
28 Department of Justice, Office of Attorney General. I am the attorney of record for the defendants

1 in above-entitled action. On June 2, 2011, the plaintiff voluntarily dismissed this case against the  
2 California Highway Patrol. The remaining defendants are CHP Officers Paul Craft and Jeffrey  
3 Goodwin.

4 2. A true and correct copy of the pages of Plaintiff's Responses to Defendant Paul  
5 Craft's Interrogatories, Set One, which were cited in support of Defendants' Motions for  
6 Summary Judgment and Partial Summary Judgment, are attached hereto as Exhibit A;

7 3. A true and correct copy of the pages of Plaintiff's Responses to Defendant Jeffrey  
8 Goodwin's Interrogatories, Set One, which were cited in support of Defendants' Motions for  
9 Summary Judgment and Partial Summary Judgment, are attached hereto as Exhibit B;

10 4. A true and correct copy of Plaintiff's Initial Disclosures (without the attached  
11 documents) is attached hereto as Exhibit C. On January 26, 2012, I instructed my secretary to  
12 serve plaintiff's counsel, Higa & Gipson, LLP, with Defendants' Supplemental Initial Disclosures  
13 via U.S. Mail. As a courtesy, on the same day, I also emailed to copy of Defendants'  
14 Supplemental Initial Disclosures to James Higa, Esq. In my email, I stated, "I noticed that  
15 Plaintiff's Initial Disclosures had a significant amount of information that was to be supplied later  
16 in his Computation of Damages section. Do you plan on supplementing Plaintiff's Initial  
17 Disclosures?" Mr. Higa answered in the affirmative, but I have not received any Supplemental  
18 Initial Disclosures from the plaintiff.

19 5. A true and correct copy of the pages of the Deposition of Sean Kensinger, dated  
20 March 29, 2012, which were cited in support of Defendants' Motions for Summary Judgment and  
21 Partial Summary Judgment, are attached hereto as Exhibit D; and

22 6. A true and correct copy of the pages from the testimony of Carol Sharp as shown  
23 in the Reporter's Transcript of the Proceedings for the case of *People of the State of California v.*  
24 *Sean Kensinger*, Superior Court of California in and for the County of Humboldt, Case No.  
25 CR1002750C, which were cited in support of Defendants' Motions for Summary Judgment and

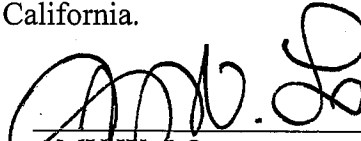
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1 Partial Summary Judgment, are attached hereto as Exhibit E.

2 I declare under penalty of perjury under the laws of the State of California that the  
3 foregoing is true and correct and that this declaration was executed this 3<sup>RD</sup> day of May, 2012,  
4 in SAN FRANCISCO, California.

5   
6 AMY W. LO

# **EXHIBIT A**

1 James Y. Higa, State Bar No. 225683  
2 Ronnie R. Gipson, Jr., State Bar No. 237673  
3 HIGA & GIPSON, LLP  
4 55 New Montgomery Street, Suite 510  
5 San Francisco, California 94105  
6 Telephone: (415) 692-6520  
7 Facsimile: (415) 692-6522  
8 [higa@higagipsonllp.com](mailto:higa@higagipsonllp.com)

9 Attorneys for Defendant  
10 SEAN KENSINGER

11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA

13 SEAN KENSINGER,  
14 Plaintiff

15 v.

16 CALIFORNIA HIGHWAY PATROL; PAUL  
17 CRAFT, individually and in his capacity as  
18 an officer for the California Highway Patrol,  
19 J. GOODWIN, individually and in his  
20 capacity as an officer for the California  
21 Highway Patrol, DOES 1-20, inclusive,

22 Defendants

No. CV 11-00885 WHA

**PLAINTIFF SEAN KENSINGER'S  
RESPONSES TO DEFENDANT PAUL  
CRAFT'S SPECIAL  
INTERROGATORIES, SET ONE**

23 PROPOUNDING PARTY: Defendant PAUL CRAFT  
24 RESPONDING PARTY: Plaintiff SEAN KENSINGER  
25 SET NUMBER: ONE

26 INTRODUCTION

27 In responding to these Interrogatories, Plaintiff SEAN KENSINGER, the responding  
28 party ("Plaintiff"), has furnished the propounding party with such information as is presently  
available to Plaintiff, which may include hearsay and other forms of information which are

1 **SPECIAL INTERROGATORY NO. 15:**

2 As to each fact in YOUR answer to Interrogatory No. 14, IDENTIFY each and every  
3 PERSON with knowledge or information about that fact and each and every DOCUMENT  
4 supporting that fact.

5 **RESPONSE TO SPECIAL INTERROGATORY NO. 15:**

6 Plaintiff objects to this interrogatory on the ground that it is vague and ambiguous in its  
7 use of the phrase "reasonable certainty" as articulated in the predicate interrogatory. Plaintiff  
8 objects to this interrogatory on the ground it is impermissibly compound.

9 Without waiving the foregoing objection, Plaintiff responds as follows:

10 Not applicable to the interrogatory as phrased.

11 **SPECIAL INTERROGATORY NO. 16:**

12 Identify the PERSON or PERSONS that YOU that can state with reasonable certainty  
13 kicked YOU on the right side of YOUR torso during the INCIDENT.

14 **RESPONSE TO SPECIAL INTERROGATORY NO. 16:**

15 Plaintiff objects to this interrogatory on the ground that it is vague and ambiguous in its  
16 use of the phrase "reasonable certainty."

17 Without waiving the foregoing objection, Plaintiff responds as follows:

18 Plaintiff cannot be reasonably certain who kicked him during the INCIDENT.

19 **SPECIAL INTERROGATORY NO. 17:**

20 If YOU contend that more than one PERSON kicked YOU in the right side of YOUR  
21 torso during the INCIDENT, please state all facts describing how the kicks occurred, indicating  
22 how many kicks struck YOU, where on YOUR body the kick impacted, who kicked you each  
23 time, the time that elapsed between kicks, and where the PERSONS kicking YOU were standing  
24 in relation to each other, any other individual who was present, and YOU.

25 **RESPONSE TO SPECIAL INTERROGATORY NO. 17:**

26 Plaintiff objects to this interrogatory on the ground that it is vague and ambiguous in its  
27 use of the phrase "reasonable certainty" as articulated in the predicate interrogatory. Plaintiff  
28 objects to this interrogatory on the ground it is impermissibly compound.

Without waiving the foregoing objection, Plaintiff responds as follows:

Although Plaintiff does not know who kicked him, he does not believe he was kicked by

1 more than one person in the INCIDENT.

2 **SPECIAL INTERROGATORY NO. 18:**

3 As to each fact in YOUR answer to Interrogatory No.17, IDENTIFY each and every  
4 PERSON with knowledge or information about that fact and each and every DOCUMENT  
5 supporting that fact.

6 **RESPONSE TO SPECIAL INTERROGATORY NO. 18:**

7 Plaintiff objects to this interrogatory on the ground that it is vague and ambiguous in its  
8 use of the phrase "reasonable certainty" as articulated in the predicate interrogatory. Plaintiff  
9 objects to this interrogatory on the ground it is impermissibly compound.

10 Without waiving the foregoing objection, Plaintiff responds as follows:

11 Not applicable.

12 **SPECIAL INTERROGATORY NO. 19:**

13 At or about 6:15 p.m. on December 5, 2009, did you submit to a preliminary alcohol  
14 screening breath test at the Humboldt County Jail?

15 **RESPONSE TO SPECIAL INTERROGATORY NO. 19:**

16 Plaintiff objects to this interrogatory on the ground that it is vague and ambiguous in its  
17 use of the term "preliminary alcohol screening breath test." Plaintiff objects to this interrogatory  
18 on the ground it assumes facts. Plaintiff objects to this interrogatory on the ground that it lacks  
19 proper foundation.

20 Without waiving the foregoing objections, Plaintiff responds as follows:

21 Plaintiff was not administered a "preliminary alcohol screening breath test" as described  
22 in this interrogatory.

23 **SPECIAL INTERROGATORY NO. 20:**

24 If your response to Interrogatory No. 19 is yes, please state the result or results of the  
25 preliminary alcohol screening breath test.

26 **RESPONSE TO SPECIAL INTERROGATORY NO. 20:**

27 Plaintiff objects to this interrogatory on the ground that it is vague and ambiguous in its  
28 use of the term "preliminary alcohol screening breath test." Plaintiff objects to this interrogatory  
on the ground it assumes facts. Plaintiff objects to this interrogatory on the ground that it lacks  
proper foundation.

1 be protected by the attorney-client privilege and attorney work-product doctrines. Plaintiff  
2 objects to this interrogatory on the ground that it is impermissibly overbroad and thus oppressive  
3 and burdensome.

4 Without waiving the foregoing objections, Plaintiff responds as follows:

5 Plaintiff has spoken with members of his immediate family, numerous friends,  
6 physicians, everyone in his counseling sessions, and many complete strangers with interest in the  
7 events of the subject incident.  
8  
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10 DATED: February 21, 2012

HIGA & GIPSON, LLP

11  
12  
13 By 

JAMES Y. HIGA

Attorneys for PLAINTIFF

SEAN KENSINGER  
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VERIFICATION

I, SEAN KENSINGER, the undersigned, declare:

1. That I am a party to the above-entitled action;
2. That I have read the foregoing contained in this **PLAINTIFF SEAN KENSINGER'S RESPONSES TO DEFENDANT PAUL CRAFT'S SPECIAL INTERROGATORIES, SET ONE**;
3. That these responses are true and correct to the best of my personal knowledge, except as to those responses stated upon information and belief, and as to those responses, I am informed and believe them to be correct;
4. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20<sup>th</sup> day of February, 2012, at Wrightwood, California.

  
SEAN KENSINGER

# EXHIBIT B

1 James Y. Higa, State Bar No. 225683  
2 Ronnie R. Gipson, Jr., State Bar No. 237673  
3 HIGA & GIPSON, LLP  
4 55 New Montgomery Street, Suite 510  
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8 [higa@higagipsonllp.com](mailto:higa@higagipsonllp.com)

9 Attorneys for Defendant  
10 SEAN KENSINGER

11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA

13 SEAN KENSINGER,  
14 Plaintiff

15 v.

16 CALIFORNIA HIGHWAY PATROL; PAUL  
17 CRAFT, individually and in his capacity as  
18 an officer for the California Highway Patrol,  
19 J. GOODWIN, individually and in his  
20 capacity as an officer for the California  
21 Highway Patrol, DOES 1-20, inclusive,

22 Defendants

No. CV 11-00885 WHA

**PLAINTIFF SEAN KENSINGER'S  
RESPONSES TO DEFENDANT  
JEFFREY GOODWIN'S SPECIAL  
INTERROGATORIES, SET ONE**

23 PROPOUNDING PARTY: Defendant JEFFREY GOODWIN

24 RESPONDING PARTY: Plaintiff SEAN KENSINGER

25 SET NUMBER: ONE

26 INTRODUCTION

27 In responding to these Interrogatories, Plaintiff SEAN KENSINGER, the responding  
28 party ("Plaintiff"), has furnished the propounding party with such information as is presently  
available to Plaintiff, which may include hearsay and other forms of information which are

1 Yes.

2 **SPECIAL INTERROGATORY NO. 2:**

3 If YOUR response to Interrogatory No. 1 is yes, please describe fully all of the mental,  
4 physical, or emotional symptoms or manifestations of YOUR severe emotional distress,  
5 including but not limited to the nature, extent, location, and duration of each symptom or  
6 manifestation of YOUR severe emotional distress.

7 **RESPONSE TO SPECIAL INTERROGATORY NO. 2:**

8 Plaintiff objects to this interrogatory on the ground that it seeks private and sensitive  
9 personal medical information. Plaintiff objects to this interrogatory on the ground that it  
10 assumes facts.

11 Without waiving the foregoing objections, Plaintiff responds as follows:

12 As a result of the subject incident, I experience significant anxiety when in the presence  
13 of law enforcement officers or even when I see patrol vehicles on the street near me. I suffer  
14 from an extreme distrust of law enforcement which I had not felt prior to the subject incident. I  
15 suffer from recurring nightmares and restless sleep because I cannot control my anxiety over  
16 what happened to me during the subject incident. I will occasionally become so depressed that I  
17 remain bedridden for periods of days, incapacitated because of my anxiety, rage and fear over  
18 the subject incident. I used to feel protected by law enforcement, but I now feel completely  
19 betrayed.

20 **SPECIAL INTERROGATORY NO. 3:**

21 For each symptom or manifestation of YOUR severe emotional distress identified in  
22 YOUR response to Interrogatory No. 2, please identify any medical, hospital, holistic,  
23 therapeutic, psychiatric, psychological, or other health care treatment that you received for each  
24 symptom or manifestation of YOUR severe emotional distress, including the dates of treatment,  
25 the nature of the treatment, the names and addresses of providers and/or hospitals involved in  
26 providing the treatment, and the diagnosis and prognosis, if known.

27 **RESPONSE TO SPECIAL INTERROGATORY NO. 3:**

28 Plaintiff objects to this interrogatory on the ground that it seeks private and sensitive  
personal medical information. Plaintiff objects to this interrogatory on the ground that it  
assumes facts.

1 Without waiving the foregoing objections, Plaintiff responds as follows:

2 Plaintiff has not treated with a mental health professional for his emotional distress  
3 injuries at this time.

4 **SPECIAL INTERROGATORY NO. 4:**

5 Has any provider that YOU identified in YOUR response to Interrogatory No. 3 advised  
6 that YOU may require future or additional treatment for any symptom or manifestation of  
7 YOUR severe emotional distress that YOU attribute to the INCIDENT?

8 **RESPONSE TO SPECIAL INTERROGATORY NO. 4:**

9 Plaintiff objects to this interrogatory on the ground that it seeks private and sensitive  
10 personal medical information. Plaintiff objects to this interrogatory on the ground that it  
11 assumes facts.

12 Without waiving the foregoing objections, Plaintiff responds as follows:

13 Not applicable.

14 **SPECIAL INTERROGATORY NO. 5:**

15 If YOUR response to Interrogatory No. 4 is yes, state the name and address of each  
16 provider advising that future or additional treatment may be required, the complaints for which  
17 the treatment was advised, and the nature, duration, and estimated cost of the treatment.

18 **RESPONSE TO SPECIAL INTERROGATORY NO. 5:**

19 Plaintiff objects to this interrogatory on the ground that it seeks private and sensitive  
20 personal medical information. Plaintiff objects to this interrogatory on the ground that it  
21 assumes facts.

22 Without waiving the foregoing objections, Plaintiff responds as follows:

23 Not applicable.

24 **SPECIAL INTERROGATORY NO. 6:**

25 At any time before the INCIDENT, did you ever develop or experience any emotional or  
26 mental conditions or disabilities associated with emotional distress?

27 **RESPONSE TO SPECIAL INTERROGATORY NO. 6:**

28 Plaintiff objects to this interrogatory on the ground that it seeks private and sensitive  
personal medical information. Plaintiff objects to this interrogatory on the ground that it is  
overbroad as to time. Plaintiff objects to this interrogatory on the ground it is vague and

1 ambiguous in its use of the phrase "any emotional or mental conditions or disabilities associated  
2 with emotional distress."

3 Without waiving the foregoing objections, Plaintiff responds as follows:

4 No.

5 **SPECIAL INTERROGATORY NO. 7:**

6 If YOUR response to Interrogatory No. 6 is yes, please describe each emotional or  
7 mental condition or disability that you developed or experience, when and how the condition or  
8 disability arose, the dates and types of medical, hospital, holistic, therapeutic, psychiatric,  
9 psychological, or other health care treatment that you received for the condition or disability, the  
10 names and addresses of providers and hospitals involved, and the diagnosis and prognosis, if  
11 known.

12 **RESPONSE TO SPECIAL INTERROGATORY NO. 7:**

13 Plaintiff objects to this interrogatory on the ground that it seeks private and sensitive  
14 personal medical information. Plaintiff objects to this interrogatory on the ground that the  
15 predicate interrogatory is overbroad as to time. Plaintiff objects to this interrogatory on the  
16 ground it is vague and ambiguous in its use of the phrase "any emotional or mental condition or  
17 disability."

18 Without waiving the foregoing objections, Plaintiff responds as follows:

19 Not applicable.

20 **SPECIAL INTERROGATORY NO. 8:**

21 How many times in the last eighteen (18) years have you been detained or arrested by  
22 law enforcement officers?

23 **RESPONSE TO SPECIAL INTERROGATORY NO. 8:**

24 Plaintiff objects to this interrogatory on the ground it assumes facts. Plaintiff objects to  
25 this interrogatory on the ground it is impermissibly compound. Plaintiff objects to this  
26 interrogatory on the ground it is overbroad as to time. Plaintiff objects to this interrogatory on  
27 the ground that it is vague and ambiguous in its use of the term "detained." Plaintiff objects to  
28 this interrogatory on the ground that it is not calculated to lead to the discovery of admissible  
evidence and only serves to harass Plaintiff.

Without waiving the foregoing objections, Plaintiff responds as follows:

1        Aside from the subject incident, Plaintiff recalls being arrested four times. As for  
 2        detentions, Plaintiff has been "detained" several times over the last 18 years for purported  
 3        vehicle code violations.

4        **SPECIAL INTERROGATORY NO. 9:**

5        For each detention or arrest in YOUR response to Interrogatory No. 8, please state the  
 6        date and time of detention and/or arrest, the city and state where the detention and/or arrest  
 7        occurred, the names of the officers and law enforcement agency involved, the circumstances  
 8        surrounding the detention and/or arrest, and whether YOU were released or charged with a  
 9        crime.

10       **RESPONSE TO SPECIAL INTERROGATORY NO. 9:**

11       Plaintiff objects to this interrogatory on the ground that the predicate interrogatory  
 12       assumes facts. Plaintiff objects to this interrogatory on the ground it is impermissibly  
 13       compound. Plaintiff objects to this interrogatory on the ground that the predicate interrogatory is  
 14       overbroad as to time. Plaintiff objects to this interrogatory on the ground that it is not calculated  
 15       to lead to the discovery of admissible evidence and only serves to harass Plaintiff.

16       Without waiving the foregoing objections, Plaintiff responds as follows:

17       Arrest: approximately Summer 1994; Ashland, OR, Ashland Police Department,  
 18       charged with Rioting, charges dismissed;

19       Arrest: late 1990s; Newark, CA; Newark Police Department, charged with petty theft;

20       Arrest: approximately June 2002; Fremont, CA, Fremont Police Department; charged  
 21       with a misdemeanor resisting arrest when leaving a bowling alley running away from people  
 22       who had attacked me;

23       Arrest: approximately Fall 2007, Santa Clara, CA, Santa Clara Police Department;  
 24       charged with offenses when I was hit with a chair while trying to break up a fight involving a  
 25       friend who had returned from military service in Iraq.

26       **SPECIAL INTERROGATORY NO. 10:**

27       Other than this INCIDENT, have you had any other negative or unsatisfactory  
 28       encounters with law enforcement officers or agencies?

29       **RESPONSE TO SPECIAL INTERROGATORY NO. 10:**

30       Plaintiff objects to this interrogatory on the ground that it is vague and ambiguous in its

1 YOUR direct supervisor and his or her job title.

2 **RESPONSE TO SPECIAL INTERROGATORY NO. 20:**

3 Plaintiff objects to this interrogatory on the ground that it is overbroad as to time.

4 Without waiving the foregoing objection, Plaintiff responds as follows:

5 For the past 8 years, Plaintiff has solely owned and operated Aiden Landscape Design.

6 **SPECIAL INTERROGATORY NO. 21:**

7 State the total income you have lost and business expenses that you have had to incur to  
8 date as a result of the INCIDENT, including how YOU calculated these amounts.

9 **RESPONSE TO SPECIAL INTERROGATORY NO. 21:**

10 Plaintiff objects to this interrogatory on the ground that it is impermissibly compound.

11 Plaintiff objects to this interrogatory on the ground that it is duplicative.

12 Without waiving the foregoing objections, Plaintiff responds as follows:

13 Approximately \$11,000. This amount is calculated using a review of Plaintiff's bank  
14 account statements identifying a depletion of both accounts totaling in roughly that amount. The  
15 \$11,000.00 reflects only those out-of-pocket costs Plaintiff was unable to avoid due to payment  
16 of workers to compensate for his inability to work, as well as out-of-pocket costs associated with  
17 costs of living—even though he was stripped of practically any-and-all income because of his  
18 officer-inflicted injuries. Further review of earlier business account entries illustrates a business  
19 which, in the 7 months prior to the subject incident, earned an average of \$3,000.00 per month in  
20 accounts receivable which Plaintiff could no longer pursue in the short term because of his 6  
21 month period of injury and recovery.

22 Plaintiff reserves the right to supplement these responses to the extent additional  
23 investigation and/or discovery yields additional information.

24 **SPECIAL INTERROGATORY NO. 22:**

25 As to each fact in YOUR answer to Interrogatory No. 21, IDENTIFY each and every  
26 PERSON with knowledge or information about that fact and each and every DOCUMENT  
27 supporting that fact.

28 **RESPONSE TO SPECIAL INTERROGATORY NO. 22:**

Plaintiff objects to this interrogatory on the ground that the predicate interrogatory is  
impermissibly compound. Plaintiff objects to this interrogatory on the ground that the predicate



1 interrogatory is duplicative.

2 Without waiving the foregoing objections, Plaintiff responds as follows

3 Michelle Hyde, Patrick Hyde, Gabe Camacho, Justin Collins, Loren Kensinger, Colleen  
4 Kensinger.

5 Plaintiff reserves the right to supplement these responses to the extent additional  
6 investigation and/or discovery yields additional information.

7 **SPECIAL INTERROGATORY NO. 23:**

8 Please IDENTIFY all PERSONS that you have paid for labor, whether on full-time or  
9 part-time basis or as contractor or employee, at any time in your landscaping business.

10 **RESPONSE TO SPECIAL INTERROGATORY NO. 23:**

11 Plaintiff objects to this interrogatory on the ground that it is grossly overbroad. Plaintiff  
12 objects to this interrogatory on the ground that it is not reasonably calculated to lead to the  
13 discovery of admissible evidence.

14 Subject to and without waiving the foregoing objections, Plaintiff responds as follows:

15 Plaintiff hired day laborers on a cash basis when necessity warranted. Plaintiff was the  
16 sole employee of, and performed virtually all work for, Aiden Landscape Design for the entirety  
17 of the damages period at issue in this case. Plaintiff hired employees within the last 6 months  
18 after moving his business to Southern California; however such period has no bearing on the  
19 issues presented in this case and does not constitute valid admissible evidence.

20 **SPECIAL INTERROGATORY NO. 24:**

21 Please IDENTIFY all work assignments that you were unable to perform due to injuries  
22 that you contend you sustained during this incident, including the name and address of person  
23 desiring to use your service, the nature and scope of work to be performed, and the date and  
24 times of the assignment.

25 **RESPONSE TO SPECIAL INTERROGATORY NO. 24:**

26 Plaintiff objects to this interrogatory on the ground that it is vague and ambiguous in its  
27 use of the term "work assignments." Plaintiff objects to this interrogatory on the ground it seeks  
28 information violative of the privacy rights of third parties.

Without waiving the foregoing objections, Plaintiff responds as follows:

Plaintiff was forced to decline new work requested by verbal inquiry by numerous

1 former neighbors located on Cobb Road in Dinsmore, CA, including flattening land, building  
 2 fences, hauling lumber, stone work, digging holes and other land improvement work to the  
 3 extent he was the sole employee and worker for Aiden Landscape Design. As stated earlier,  
 4 Plaintiff does not recall the names of the people who requested this work.

5 Plaintiff reserves the right to supplement these responses to the extent additional  
 6 investigation and/or discovery yields additional information.

7 **SPECIAL INTERROGATORY NO. 25:**

8 As to each fact in YOUR answer to Interrogatory No. 24, IDENTIFY each and every  
 9 PERSON with knowledge or information about that fact and each and every DOCUMENT  
 10 supporting that fact.

11 **RESPONSE TO SPECIAL INTERROGATORY NO. 25:**

12 Plaintiff objects to this interrogatory on the ground that it is vague and ambiguous in its  
 13 use of the term "work assignments" as articulated in the predicate interrogatory. Plaintiff objects  
 14 to this request on the ground it is impermissibly compound and thus overbroad in scope.

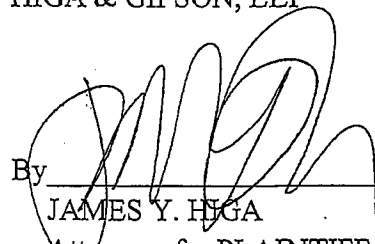
15 Without waiving the foregoing objections, Plaintiff responds as follows:

16 Michelle Hyde, Patrick Hyde, Gabe Camacho, Justin Collins, Loren Kensinger, Colleen  
 17 Kensinger.

18 Because most of Aiden Landscape Design's work was done per verbal inquiry prior to  
 19 mid-late 2011, these "work assignments" were not reduced to a writing, whether a contract or  
 20 otherwise.

21 DATED: February 21, 2012

HIGA & GIPSON, LLP


22  
 23  
 24 By   
 25 JAMES Y. HIGA  
 26 Attorneys for PLAINTIFF  
 27 SEAN KENSINGER  
 28

VERIFICATION

I, SEAN KENSINGER, the undersigned, declare:

1. That I am a party to the above-entitled action;
2. That I have read the foregoing contained in this **PLAINTIFF SEAN KENSINGER'S RESPONSES TO DEFENDANT JEFFREY GOODWIN'S SPECIAL INTERROGATORIES, SET ONE;**
3. That these responses are true and correct to the best of my personal knowledge, except as to those responses stated upon information and belief, and as to those responses, I am informed and believe them to be correct;
4. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20<sup>th</sup> day of February, 2012, at Wrightwood, California.



SEAN KENSINGER

# EXHIBIT C

1 James Y. Higa, State Bar No. 225683  
2 Ronnie R. Gipson, Jr., State Bar No. 237673  
3 HIGA & GIPSON, LLP  
4 71 Stevenson Street, 4<sup>th</sup> Floor  
5 San Francisco, California 94105  
6 Telephone: (415) 655-6820  
7 Facsimile: (415) 655-6821

8  
9 Attorneys for Defendant  
10 SEAN KENSINGER

11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA

13 SEAN KENSINGER,

14 Plaintiff

15 v.

16 CALIFORNIA HIGHWAY PATROL; PAUL  
17 CRAFT, individually and in his capacity as  
18 an officer for the California Highway Patrol,  
19 J. GOODWIN, individually and in his  
20 capacity as an officer for the California  
21 Highway Patrol, DOES 1-20, inclusive,

22 Defendants

No. CV 11-00885 WHA

**PLAINTIFF SEAN KENSINGER'S  
INITIAL DISCLOSURES**

23 Plaintiff SEAN KENSINGER ("Kensinger") makes the following Initial Disclosures  
24 pursuant to Fed. R. Civ. Proc. 26(a)(1):

25 **I. WITNESSES**

26 The following witnesses may have pertinent information regarding the facts underlying  
27 this case:

- 28 1. Plaintiff Sean Kensinger (c/o Higa & Gipson, counsel of record);
2. Justin Collins;
3. Geronimo Gardener;
4. Sarah Dodier;

5. Defendant CHP Officer Paul Craft;
6. Defendant CHP Officer J. Goodwin;

It should be noted that several of the above-named individuals served as testimonial witnesses in the criminal court action arising from the events underlying this litigation. Once any additional information is discovered regarding these and any other witnesses unknown to Plaintiff at this time, these disclosures will be supplemented accordingly.

## **II. DOCUMENTS/MATERIALS RELEVANT TO DISPUTED FACTS**

The following documents are known to Plaintiff at this time. Plaintiff understands the ongoing obligation to supplement these disclosures upon the discovery and/or receipt of additional documents and materials.

1. California Highway Patrol Incident Report #01170KL, dated December 5, 2009;
2. Department of Motor Vehicles Administrative Per Se Hearing Notification of Findings and Decision, dated January 7, 2010;
3. Kaiser Permanente Medical Record, dated December 9, 2009;
4. Kaiser Permanente Medical Record, dated January 26, 2010;
5. Kaiser Permanente Medical Record, Radiology Report, dated May 10, 2010;
6. 13 Color Photographs taken between December 7, 2009, and December 13, 2009, of Plaintiff's left elbow and arm;
7. Heritage Bank of Commerce financial statements;
8. United Services Credit Union financial statements;
9. Transcript of trial testimony of Defendant CHP Officer Paul Craft (not currently in possession of Plaintiff's counsel);
10. Transcript of trial testimony of Defendant CHP Officer J. Goodwin (not currently in possession of Plaintiff's counsel);
11. Transcript of trial testimony of Justin Collins (not currently in possession of Plaintiff's counsel);

1 12. Transcript of trial testimony of Sarah Dodier (not currently in possession of  
2 Plaintiff's counsel);

3 13. Surveillance video of "sally port" during detention of Plaintiff (not currently in  
4 possession of Plaintiff's counsel);

5  
6 **III. COMPUTATION OF DAMAGES**

7 Plaintiff is in the process of requesting additional documents and materials indicating the  
8 total value of medical treatment and physical therapy for his injuries sustained in the subject  
9 incident.

10 Additionally, Plaintiff, a landscape contractor by trade, is calculating (a) how much work  
11 he lost, and (b) how much he paid for extra help performing on existing contracts during his  
12 approximately 8-10 weeks of recovery.

13  
14 **IV. INSURANCE AGREEMENTS**

15 Plaintiff is unaware of any applicable insurance agreements at this time.  
16  
17

18 DATED: May 31, 2011

HIGA & GIPSON, LLP

19  
20  
21 By

  
JAMES Y. HIGA

Attorneys for PLAINTIFF  
SEAN KENSINGER  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

I, the undersigned, declare that I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. I am an employee of Higa & Gipson LLP and my business address is 71 Stevenson Street, 4<sup>th</sup> Floor, San Francisco, CA 94105. On the date set forth below, I served the following documents:

**PLAINTIFF SEAN KENSINGER'S INITIAL DISCLOSURES**

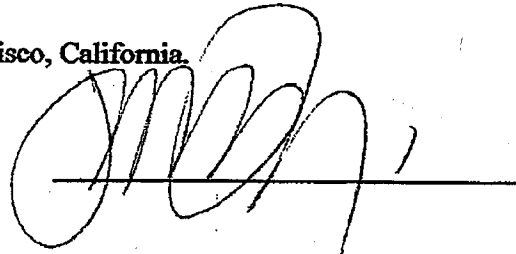
by placing the documents listed above in a sealed envelope with postage thereon fully prepaid, in the United States Mail at San Francisco, California, addressed as set forth below:

**SEE ATTACHED SERVICE LIST**

I am readily familiar with the firm's practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and in the ordinary course of business correspondence would be deposited with the U.S. Postal Service the same day it was placed for collection and processing.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 31, 2011 at San Francisco, California.

A handwritten signature in dark ink, appearing to be "Sean Kensinger", is written over a horizontal line. The signature is stylized with large, sweeping loops.



# EXHIBIT D

Kensinger vs. CHP

Sean Kensinger

3/29/12

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3

4 SEAN KENSINGER,

5 Plaintiff,

6 v.

No. CV 11-00885 WHA

7 CALIFORNIA HIGHWAY PATROL;  
8 PAUL CRAFT, individually and  
9 in his capacity as an officer  
10 for the California Highway Patrol,  
11 J. GOODWIN, individually and in  
12 his capacity as an officer  
13 for the California Highway Patrol,  
14 DOES 1-20, inclusive,

15 Defendants.  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

DEPOSITION OF SEAN KENSINGER

Thursday, March 29, 2012

REPORTED BY:

DONIELLE DEL CARLO, CSR 10476

DE SOUZA & ASSOCIATES  
Certified Shorthand Reporters  
P.O. BOX 1675  
San Mateo, California 94401  
(650) 341-2671

A P P E A R A N C E S

FOR THE PLAINTIFF SEAN KENSINGER:

HIGA & GIPSON, LLP

by: RONNIE R. GIPSON, JR., ESQ.

55 New Montgomery Street, Suite 510

San Francisco, California 94105

(415) 692-6520

FOR THE DEFENDANT CALIFORNIA HIGHWAY PATROL:

OFFICE OF THE ATTORNEY GENERAL

by: AMY LO, ESQ.

455 Golden Gate Avenue, 11th Floor

San Francisco, California 94102

(415) 703-5500

Also Present: Christopher Burgess, Videographer  
1350 Old Bayshore Highway  
Burlingame, California 94010

---o0o---

## I N D E X

EXAMINATION BY:	PAGE
Ms. Lo	05
Mr. Gipson	278

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## EXHIBITS

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5 PLAINTIFF SEAN KENSINGER'S RESPONSES....38 TO DEFENDANT JEFFREY GOODWIN'S SPECIAL INTERROGATORIES, SET ONE	
6 Government Claims Form.....73 Claim No.: 590247	
7 Diagram completed by witness of.....111 incident scene	
8 Photo of Billy Club.....236	
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---o0o---

1 BE IT REMEMBERED that, pursuant to Notice  
2 of Taking Deposition, and on Thursday, March 29, 2012,  
3 commencing at the hour of 9:35 a.m. thereof; at  
4 455 Golden Gate Avenue, 11th Floor, San Francisco,  
5 California, before me, DONIELLE DEL CARLO, a Certified  
6 Shorthand Reporter in the State of California,  
7 personally appeared

8 SEAN KENSINGER,  
9 called as a witness herein; and the said witness, being  
10 by me first duly sworn, was thereupon examined and  
11 testified as is hereinafter set forth.

12 ---o0o---

13  
14 THE VIDEOGRAPHER: Good morning, we are on the  
15 video record at 9:34 a.m. I am Christopher Burgess  
16 with Circle Video Productions, 1350 Old Bayshore  
17 Highway, Burlingame, California.

18 This is a matter pending before the United  
19 States District Court for the Northern District of  
20 California in the case captioned Sean Kensinger versus  
21 the California Highway Patrol, et al., Case No.  
22 CV 11-00885 WHA.

23 This is the beginning of Master No. 1 of  
24 Volume 1 of the deposition of Sean Kensinger on  
25 March 29, 2012 at the Office of the Attorney General,

1 455 Golden Gate Avenue, Suite 11000, San Francisco,  
2 California. It is being taken on behalf of the  
3 Defendants.

4 Will counsel present please identify yourself  
5 for the record?

6 MR. GIPSON: Ronnie Gipson for the Defendant.  
7 For the Plaintiff. Sorry.

8 MS. LO: Amy Lo for Defendants.

9 THE VIDEOGRAPHER: The court reporter today is  
10 Donielle Del Carlo of De Souza & Associates.  
11 Please swear the witness and begin.

12 (Witness sworn.)

13 EXAMINATION BY MS. LO

14 MS. LO: Good morning, Mr. Kensinger. We've  
15 met several times before. Thank you for coming  
16 back to my office.

17 THE WITNESS: We've met once, I believe.

18 MS. LO: Yes. And then again this morning.  
19 So that's how I'm counting it.

20 THE WITNESS: All right. All right.

21 MS. LO: Q. So could you state and spell your  
22 name for the record?

23 A. My name is Sean Patrick Kensinger. S-E-A-N,  
24 P-A-T-R-I-C-K, and Kensinger, K-E-N-S-I-N-G-E-R.

25 Q. And have you ever gone by any other names?

1 A. Correct.

2 Q. Okay. Now, did your tiredness have any effect  
3 on your driving while you were heading away from the  
4 Arcata Airport towards Dinsmore?

5 A. Yes.

6 Q. Okay. And what was the effect that your  
7 tiredness had on your driving while you were leaving the  
8 Arcata Airport heading towards Dinsmore?

9 A. I believe I missed the mile-per-hour sign, and  
10 I hit the bumps on the side of the road once. Or maybe  
11 it was the middle-of-the-road bumps, but I was not in my  
12 lane at one point.

13 Q. Anything else?

14 A. Geronimo told me to stop swerving.

15 Q. Did you notice that you were swerving?

16 A. Yes.

17 Q. And do you think that the swerving -- was the  
18 swerving of such a magnitude that it would be apparent  
19 to other drivers, in your opinion?

20 MR. GIPSON: Objection. Calls for  
21 speculation.

22 THE WITNESS: I couldn't -- I couldn't answer  
23 that. I wouldn't know.

24 MS. LO: Okay.

25 Q. But to the passengers inside your truck it was

1     noticeable, the swerving?

2             MR. GIPSON:  Objection.  Objection.  That  
3     misstates testimony.  He only testified as to one  
4     passenger.

5             MS. LO:  Okay.

6             Q.  But to Geronimo Gardner, who was inside your  
7     truck, the swerving was noticeable; is that correct?

8             A.  He told me to stop swerving.

9             Q.  Okay.  You also mentioned your eyes dropping.

10            A.  Yes.

11            Q.  Okay.  So I'm going to list what you've told  
12   me so far about the effect of tiredness on your driving  
13   from the Arcata Airport to Dinsmore.  You mentioned that  
14   you missed a speed limit sign on the safety corridor,  
15   that you were sometimes not in your lane -- or one time  
16   not in your lane?

17            A.  I remember hitting bumps once, and right after  
18   that Geronimo said, Stop swerving.

19            Q.  Okay.  You were swerving?

20            A.  I drifted off my lane.

21            Q.  Okay.  And your eyes were drooping?

22            A.  I was tired.

23            Q.  Were your eyes drooping?

24            A.  Yes.

25            Q.  What else -- what other manifestations were



1 just trying to find out your relationship with law  
2 enforcement, that's where I'm getting at with this.

3 THE WITNESS: My lawyer told me I should plead  
4 to the resisting arrest, so I did.

5 MS. LO: Okay.

6 Q. But in that instance you were not afraid of  
7 the officer? And I'm talking about in 2007, 2008.

8 A. Correct. I was relieved that there was  
9 officers there. Once I realized there was officers  
10 there, I stopped running.

11 Q. Now, you've had numerous encounters with law  
12 enforcement officers prior to this incident on  
13 December 5th, 2009; is that correct?

14 A. Correct.

15 Q. Can you estimate for me the amount of time?

16 A. The biggest amount of time was the time I was  
17 stopped on the Canadian border.

18 Q. Mm-hmm.

19 A. For a warrant I had in Oregon which I did not  
20 know about.

21 MR. GIPSON: She's asking for the number of  
22 times.

23 THE WITNESS: Yeah. I'm trying to explain  
24 that during that time they bussed me down to  
25 Ashland, and I was at 50 jails, booked in. I have

1 had extensive experience with getting handcuffed,  
2 unhandcuffed, fingerprinted, booked into jail.  
3 Because we had to stop at every single jail on  
4 Highway 5 from the border of Canada to the border  
5 of California.

6 MS. LO: Okay.

7 Q. So just counting that as being one time --

8 A. Okay.

9 Q. -- can you tell me overall prior to this  
10 December 5th, 2009 incident, how many contacts you've  
11 had with law enforcement that were either detentions or  
12 arrests?

13 A. Six, around there.

14 Q. Okay. And in none of those situations were  
15 you ever afraid of the law enforcement officers; is that  
16 correct?

17 A. No.

18 Q. Okay. So where we left off is that you told  
19 Officer Craft that you had not been drinking. What was  
20 the next thing that happened?

21 A. He called me a fucking liar.

22 Q. Okay.

23 A. And said, Go sit over there, and motioned with  
24 his flashlight exactly where I should sit and walked  
25 with me over towards it.

1 far as you can tell --

2 A. Yes.

3 Q. -- as the first blow?

4 A. Yes. I saw him hit me the second time.

5 Q. Okay. Did you hear any -- strike that.

6 As this was happening, as you were being hit  
7 by Officer Craft, did you hear either Geronimo Gardner  
8 or Justin Collins or the officer in the SUV say  
9 anything?

10 A. No. He was yelling at me, that's all I heard.

11 Q. Okay. And what was the thing that happened  
12 next after you were struck a second time?

13 A. I think my knees gave out because I was going  
14 down, and I hit my knees, I was still watching him as I  
15 go down, and I see he's rearing back for another shot at  
16 me, so I try to throw myself on to the ground, and he  
17 swung again, and it just was a glancing blow off the top  
18 of my shoulder here and my head.

19 Q. Okay. Now, when you say that your knees gave  
20 out, is it because of the pain that you were feeling?

21 A. Yeah --

22 Q. Or was it because Officer Craft struck you by  
23 the knees?

24 A. No. It was from the force of his strikes to  
25 my arm.

1 Q. Okay.

2 A. And the pain I was feeling.

3 Q. Now, you indicated that prior to the third  
4 blow Officer Craft was rearing back and -- before he  
5 struck you on the shoulder?

6 A. Yes.

7 Q. Did he use that same type of movement when he  
8 struck you the first time? In other words, rearing back  
9 and then striking you?

10 A. I didn't notice the first hit. I was in the  
11 process, kind of head down, turning, you know, and then  
12 it just happened.

13 Q. Okay.

14 A. And then I looked at him, and I could see his  
15 face, and he's still screaming at me, so I grab my arm,  
16 and he hits me again, and then I see him rearing back  
17 again, so I go down. I don't know if it was voluntary  
18 or not, but I went down.

19 Q. So prior to the second hit, Officer Craft was  
20 also rearing back prior to hitting you; is that correct?

21 A. Yes.

22 Q. Okay. So now you're on your knees, and you've  
23 been hit a third time. Do I have that sequence correct?

24 A. It was more like I hit my knees and flopped  
25 right to my belly.

1 Q. And when the officer was asking you questions  
2 he was sitting in the driver's seat of the Durango?

3 A. Correct.

4 Q. Okay. Were the windows down on the Durango?

5 A. He had his door open, and I don't know about  
6 windows being down.

7 Q. So while you were shouting about this not  
8 being right and you can't do this to us, the officer was  
9 still in the car with the door open?

10 A. Yes.

11 Q. In the Durango with the door open. Okay.  
12 What else happened?

13 A. I don't know. I was real agitated, my arm  
14 went from being numb to being extremely painful, so I  
15 was yelling at them, and then the door opened, and  
16 that's when I saw Officer Goodwin.

17 Q. Okay. So Officer Goodwin opened the door  
18 while you were yelling inside the Durango?

19 A. Yes. I wasn't continually yelling, but I  
20 would say things like, I do remember saying, I'm Charlie  
21 as fuck, you can't do this.

22 Q. Mm-hmm. Okay.

23 A. Which I'm sure you don't know what that means  
24 but.

25 Q. No. I don't know what that means.

1           A.     In Oakland when they say you're Charlie is  
2 when you haven't done anything wrong.

3           Q.     Okay. Did Justin say anything?

4           A.     He might have told me to calm down.

5           Q.     Okay. At this time were you still afraid of  
6 the officers, or were you angry? What were you feeling  
7 at that time?

8           A.     Once I saw that there was other officers on  
9 the scene I became angry. I wanted them to know how  
10 badly I was treated by the other officer.

11          Q.     Okay. So did you think that there might be --  
12 that the officer -- Officer Craft and the SUV officer  
13 might be covering up what they had done, is that what  
14 you were thinking?

15          A.     Not at that moment.

16          Q.     Okay. But you were just saying you saw other  
17 law enforcement officers, and you wanted them to help  
18 you in your situation, correct?

19          A.     Yes.

20          Q.     So as you were yelling the door opened and you  
21 saw Officer Goodwin?

22          A.     Yes. He opened the door.

23          Q.     Okay. Tell me what happened.

24          A.     I turned to him and I said, Are you here to  
25 save me from these maniac cops?

1 Q. What did he say?

2 A. He said, Follow me.

3 Q. Okay. What happened next?

4 A. I followed him over to his car, and he opened  
5 his back door, and I sat down with my knees out the door  
6 so it was comfortable for my arm because I was  
7 handcuffed. So I wouldn't have to lean back. I had my  
8 knees out, sitting sideways in the backseat. He had the  
9 door open. He kneeled down and got eye to eye with me.

10 Q. Did you ask -- did you tell him about your  
11 arm?

12 A. Yeah. On the way over.

13 Q. And did you ask him to position you that way  
14 or?

15 A. No.

16 Q. But he allowed you to sit that way?

17 A. Yeah. He said that's good.

18 Q. Okay. What did you tell Officer Goodwin about  
19 your arm as you were heading over to his patrol car?

20 A. I said, That big, fat, bald cop hit me.

21 Q. Okay. And did Officer Goodwin respond?

22 A. He said, He says you were resisting.

23 Q. Okay. Now, when you approached Officer  
24 Goodwin's patrol car as you were walking with him, it  
25 was parked where you've indicated on Exhibit 7, correct?

Kensinger vs. CHP

Sean Kensinger

3/29/12

1 A. To the best of my knowledge, yes.

2 Q. Okay. Now, did he have any emergency lights  
3 on in his patrol vehicle?

4 A. No.

5 Q. And I read your criminal trial testimony, and  
6 you indicated at that time that Officer Goodwin arrived  
7 about 20 minutes after you first encountered Officer  
8 Craft. Is that consistent with your memory now?

9 A. At the minimum, 20 minutes.

10 Q. Okay. But it could have been longer?

11 A. Yes.

12 Q. Before Officer Craft -- before you saw Officer  
13 Goodwin?

14 A. Correct.

15 Q. Now, did Officer Goodwin ever hit or kick you?

16 A. No.

17 Q. Did he ever hit you?

18 A. No.

19 Q. Okay. In fact, you thought that he was there  
20 to save you from these other officers, correct?

21 A. I thought he could maybe help me.

22 Q. Okay. And do you have any complaints about  
23 the way Officer Goodwin treated you?

24 A. Yes.

25 Q. Okay. And what was that?

191



1           A.    He would repeat back things I didn't say and  
2   said I said them.

3           Q.    Anything other than that?

4           A.    No.

5           Q.    So Officer Goodwin would ask you questions,  
6   you would answer them?

7           A.    Mm-hmm.

8           Q.    And Officer Goodwin would purport to repeat  
9   back to your answer, but it was not the answer you gave,  
10   correct?

11          A.    Correct.

12          Q.    And did you tell him that at the time that you  
13   were sitting there?

14          A.    Yes.

15          Q.    But did he just ignore you?

16          A.    Yes.

17          Q.    Okay. Is that the only complaint you have  
18   about Officer Goodwin's behavior?

19          A.    At that moment, yes.

20          Q.    What do you mean by that? What other moments?

21          A.    Well, when he was on trial lying.

22          Q.    Okay. But other than the trial -- we're just  
23   talking about the incident, let's set aside the trial --  
24   did you have any other complaints about the -- about  
25   your interaction with Officer Goodwin?

1           A.    When he gave me the breathalyzer at the jail,  
2 he told me he didn't like my tongue and didn't let me  
3 see the second results.

4           Q.    Okay. I don't understand. He didn't like  
5 your tongue?

6           A.    That's what he says. It doesn't like your  
7 tongue.

8           Q.    Okay. So he was saying the breathalyzer --

9           A.    Yes.

10          Q.    Okay. Do you know what he meant by that?

11          A.    Nope.

12          Q.    But you took offense from that?

13          A.    Yeah. Because I could see it said zero zero.

14          Q.    So your complaint about Officer Goodwin is not  
15 so much what he said, but that he didn't show you a  
16 zero zero result on the breathalyzer; is that correct?

17               MR. GIPSON: Objection. I think that  
18 misstates his testimony.

19               MS. LO: Okay. I need to understand what it  
20 is that is the problem.

21          Q.    What is it about Officer Goodwin that you are  
22 unhappy about? You first told me that when he was  
23 interviewing you, you felt that what he repeated back to  
24 you as your statement was not the statement that you  
25 made, correct?

1 A. Correct.

2 Q. That's one thing.

3 Now, the second thing is you said it had  
4 something to do with the breathalyzer test and Officer  
5 Goodwin saying the breathalyzer doesn't like your  
6 tongue?

7 A. Yes.

8 Q. Did you take offense at that?

9 A. Yes.

10 Q. Okay. What was -- what did you interpret that  
11 statement to mean?

12 A. I could see he was upset that it read  
13 zero-zero and that I saw it.

14 Q. Okay. So did you believe that Officer Goodwin  
15 was hiding the results of your breathalyzer test?

16 A. I believe he didn't want me to see what the  
17 breathalyzer indicated after I blew into it the first  
18 time.

19 Q. Did he ever show you any of the results of the  
20 breathalyzer tests?

21 A. No.

22 Q. Okay. So you believe that Officer Goodwin  
23 didn't want to show you the results of the breathalyzer  
24 test, correct?

25 A. Correct.

1 Q. Okay.

2 A. The second time I breathed into it, he pulled  
3 it away so quick that there was no chance for me to see  
4 any kind of readout.

5 Q. Okay. Did you ask to see the readout?

6 A. No.

7 Q. Okay. Other than these two instances we've  
8 talked about, any other complaints about Officer  
9 Goodwin's conduct?

10 A. No.

11 Q. Okay. And we are setting aside the trial?

12 A. I understand.

13 Q. Okay. Thank you, very much.

14 Now, Officer Goodwin has now brought you to  
15 his patrol car, he sat you in the backseat, the door's  
16 open, you were sitting in as comfortable a position as  
17 you can be while you were handcuffed. What happens  
18 next?

19 A. He was kneeling so he could see me eye to eye.  
20 He told me, He says he was resisting, and I said, That's  
21 bullshit, no one was resisting. What's wrong with those  
22 cops? Are they on steroids?

23 Q. Okay. "He says he was resisting." Was that  
24 Officer Goodwin saying to you that Officer Craft said  
25 you were resisting?

1 tell you for certain.

2 Q. Okay.

3 A. I don't recall at this point.

4 Q. Okay. That's fine.

5 A. These are not photos I like to look at.

6 Q. Now, let's look at the last photo which is  
7 KEN 000085, and it's a photo dated December 13th, 2009.  
8 Do you know who took this photo?

9 A. I think I took that one.

10 Q. And do you know where it was taken?

11 A. It was my Hayward home.

12 Q. Okay. Thank you.

13 Now, these injuries that we just looked at in  
14 these photos, they were caused by an officer  
15 deliberately striking you with a baton; is that correct?

16 A. That is correct.

17 Q. These injuries were not inflicted accidentally;  
18 is that correct?

19 A. No.

20 Q. They were not accidental?

21 A. No. I was struck with baton by Officer Craft.

22 Q. Intentionally?

23 A. Yes.

24 Q. Okay. So this lawsuit is not about that you  
25 accidentally got hurt while you were arrested; is that

1 correct?

2 A. Correct.

3 Q. It's about intentional use of force against  
4 you?

5 A. Yes.

6 MS. LO: Okay. Now, you know, I think we're  
7 going to take a break right now for the videotape  
8 to be changed and then we'll start again.

9 THE VIDEOGRAPHER: We're going off the video  
10 record. The time is 4:19 p.m.

11 (Videotape change.)

12 THE VIDEOGRAPHER: We are back on the record.  
13 The time is 4:20 p.m.

14 Counsel, you may begin.

15 MS. LO: Q. Mr. Kensinger, at the time of  
16 this incident, you had a good look at the weapon  
17 that the officer hit you with; is that correct?

18 A. Yes.

19 Q. And, in fact, during the criminal trial you  
20 were able to draw a picture of, I think you called it, a  
21 "billy club," that the officer hit you with, correct?

22 A. Yes.

23 MS. LO: Okay. I'm going to show you a  
24 picture which I'm going to mark as Exhibit 8 to  
25 your deposition.

1 Officer Craft, and Officer Goodwin; is that correct?

2 A. Yes.

3 Q. Were there other officers that you would have  
4 sued but didn't know who they were?

5 A. I don't know what I can sue over.

6 Q. Okay. Did you explore bringing a lawsuit  
7 against who we've been calling the SUV officer?

8 A. Yes. I would have liked to.

9 Q. Okay. But you were not able to identify who  
10 that officer was?

11 A. Yes. And, ultimately, he never did anything  
12 to me.

13 Q. Okay. How about the officer that kicked you?

14 A. I could not identify that officer.

15 Q. Okay. Do you know if anyone from the Eureka  
16 Police Department was involved in this incident?

17 A. There was Eureka Police on the scene.

18 Q. How do you know that?

19 A. I don't know that.

20 Q. Well, then, why did you tell me that it was  
21 Eureka Police officers on the scene?

22 A. Because we went to the Eureka jail, there was  
23 many officers on the scene, and they were wearing  
24 different types of uniforms.

25 Q. Okay. So there was more than one law

1 not resting it properly.

2 Q. What does -- what does -- okay. Your tendon  
3 had separated from the bone?

4 A. Yes. And she described that as being  
5 tendinitis.

6 Q. Okay. She said you were not resting it  
7 properly?

8 A. Correct.

9 Q. What did you tell her you were doing and what  
10 did she think that you ought to be doing? Let's start  
11 with what did you tell her that you were doing?

12 A. I told her I was still doing landscape work  
13 one-handed as best I could.

14 Q. And she was critical of you for doing that?

15 A. She said it won't get better that way.

16 Q. Okay. But you did indicate to her that you  
17 were just using your right hand and not using your left  
18 hand in your landscaping work, correct?

19 A. I indicated to her that I couldn't help but  
20 use my left hand.

21 Q. Okay.

22 A. Even when I didn't want to.

23 Q. Okay. And she said that you were not going to  
24 get better that way. Now, were you doing landscaping  
25 work between December 9, 2009 and your visit on



1 January 26, 2010?

2 A. Yes.

3 Q. Okay. Was there a time when you took some  
4 time off work?

5 A. Yeah. After this visit.

6 Q. Okay. So what days were you off work, what  
7 were the dates? It seems like the first day would have  
8 been January 26, 2010 when your doctor told you to stop  
9 reinjuring your elbow or stop using your left arm.

10 A. Yes.

11 Q. And then when did you return to work?

12 A. When the prescription for the steroid patches  
13 ran out, and I think that was three months long.

14 Q. Okay. So you took about three months off from  
15 doing landscaping?

16 A. Yes.

17 Q. At that time, did she take any x-rays?

18 A. No.

19 Q. Did she prescribe any physical therapy?

20 A. Yes.

21 Q. And what physical therapy did she prescribe?

22 A. She gave me a -- she enrolled me in a physical  
23 therapy class.

24 Q. Did you take those classes?

25 A. I showed up once and just took the

1           A.    I was constantly working on the hill getting  
2 about 3 to \$5,000 a month with Bobcat work.

3           Q.    Okay. Do you have any documents that show  
4 that you were receiving 3 to \$5,000 a month?

5           A.    Just my bank statements.

6           Q.    Okay. I'm going to show you the bank  
7 statements that were produced during discovery, and I  
8 don't know if I'm going to mark this as an exhibit yet,  
9 but I'll show them to you.

10                  Do you recognize these documents?

11           A.    Yes.

12           Q.    Okay. You've seen them before?

13                  Now, from these documents, can I calculate how  
14 you came to \$10,000?

15           A.    You could see that my deposits stopped and my  
16 withdrawals grew.

17           Q.    Is that all?

18           A.    That's pretty much it.

19           Q.    Now, your -- you pay both personal and  
20 business expenses out of this Heritage Bank of Commerce  
21 Checking Account No. 001315837; is that correct?

22           A.    Yes.

23           Q.    Okay. So when the account is depleted, we  
24 don't know whether it's being used for personal expenses  
25 or whether it's being used for business expenses; is

1 that correct?

2 A. Correct.

3 Q. In fact, you paid for your criminal lawyer out  
4 this of account for the DUI trial; is that correct?

5 A. Yes.

6 Q. And you're also paying for your attorneys in  
7 this case out of this account, correct?

8 A. This account has been closed.

9 Q. Okay. This account has been closed?

10 A. Yes.

11 Q. When was it closed?

12 A. Last month.

13 Q. Okay. Is there a reason why you closed it?

14 A. Because I moved out of Fremont area. I don't  
15 longer do business in Fremont.

16 Q. Okay. So have you changed the business  
17 address of Aiden Landscape Design?

18 A. Yes.

19 Q. So it's now out of your -- sorry, I don't  
20 remember the name of --

21 A. The Wrightwood home.

22 Q. The Wrightwood home. Okay.

23 So you calculate your loss of \$10,000 based on  
24 the amount that your bank account with Heritage Bank of  
25 Commerce was depleted during the three months after

1 MS. LO: Okay. "Plaintiff hired day laborers  
2 on a cash basis when necessity warranted." But  
3 what I'm focusing on is the damages period, and it  
4 states in lines 14 to 16 that you did all the work  
5 during the damages period.

6 THE WITNESS: It says "virtually."

7 MS. LO: Okay.

8 Q. So "virtually" is J.C.?

9 A. Yes.

10 Q. And day laborers?

11 A. Yes.

12 Q. How much is that?

13 A. It's hard to calculate.

14 Q. Can you calculate it? Did you pay them in  
15 cash?

16 A. Yes.

17 Q. Would it be reflected in any of your bank  
18 accounts?

19 A. Yes.

20 Q. Where?

21 A. In the withdrawals.

22 Q. There are withdrawals that correlate exactly  
23 to what you paid the day laborers?

24 A. No.

25 Q. Okay. How about what you paid J.C., did you

1 pay him in cash?

2 A. Yes.

3 Q. Okay. And, again, would you be able to track  
4 down in your bank account the exact amounts that you  
5 paid to J.C.?

6 A. No.

7 Q. Okay. Now, was Dr. Heinrich the doctor who  
8 told you that you could not work, or you should not  
9 work, between January 26, 2010 and three months after  
10 that?

11 A. She told me that I should not work the first  
12 time. I didn't take her advice to heart.

13 Q. Okay.

14 A. The second time I went in in January, I took  
15 her advice.

16 Q. Did Dr. Scerback ever tell you that you  
17 couldn't do landscaping work anymore?

18 A. He told me that I would have tendinitis for  
19 the rest of my life.

20 Q. Okay. Did he tell you that the tendinitis was  
21 caused by the -- by you being hit with the baton?

22 A. Yes.

23 Q. Okay. Dr. Scerback said exactly that, that it  
24 was caused -- that your tendinitis was caused by being  
25 hit with a baton?

1 be able to tell the jury?

2 A. She also took pictures of my arm.

3 Q. Okay. Have you asked to look at those photos?

4 A. Yes.

5 Q. And are they available?

6 A. No. She's misplaced them.

7 Q. When did she take photos of your arm?

8 A. In December.

9 Q. December -- after December 12th?

10 A. It could have been before. I went to her  
11 house.

12 Q. When did you go to her house in December?

13 A. I don't know exactly but.

14 Q. Was it before your first visit to Kaiser  
15 Fremont?

16 A. No.

17 Q. Was it before your second visit to Kaiser  
18 Fremont?

19 A. Yes. I was doing work at her house. She was  
20 one of the landscape jobs I was doing.

21 Q. What kind of work were you doing at her house?

22 A. Paver stone, retaining walls, decks.

23 Q. Paver stones?

24 A. Yes.

25 Q. Retaining walls?

1 A. Deck.

2 Q. Deck.

3 And were you the only person working on that  
4 project?

5 A. I hired some day laborers for help and J.C.  
6 helped me once.

7 Q. Can you tell me what was the actual physical  
8 labor that you did at your sister's house?

9 And this was in December 2010, correct?

10 A. December all the way through the summer of  
11 2010, I stayed with her whenever I had a DUI class,  
12 which I was taking in San Francisco, and when I stayed  
13 with her I would do work at her house.

14 Q. Now, were you taking the DUI class because of  
15 the incident that occurred in this case?

16 A. I was taking the DUI class because of what  
17 Officer Craft told the DMV people at the DMV hearing.

18 Q. Okay. So it was related to this incident?  
19 There's no other DUI that we haven't discussed?

20 A. Correct.

21 Q. Okay. So tell me what was the actual physical  
22 work that you did at your sister's house between  
23 December 20 -- December 2009 and summer 2010.

24 A. Irrigation. I put in a sprinkler system.

25 Q. Okay. What does that involve? Were you

1 digging holes --

2 A. Yes.

3 Q. -- that's what I want to know.

4 A. I was digging.

5 Q. Were you lifting paving stones?

6 A. Yeah.

7 Q. What else were you doing?

8 A. Lifting retaining wall stones. Those are  
9 about 80 pounds a piece.

10 Q. Mm-hmm. Anything else?

11 A. Rototilling, removing dirt.

12 Q. Mm-hmm.

13 A. Adding stone and dirt and sand, and placing  
14 paver stone, cutting paver stones with a diamond blade.

15 Q. Did you have any other landscaping business  
16 other than working at your sister's house between  
17 December 2009 and summer 2010?

18 A. I did. I can't recall them.

19 Q. Okay. But were you primarily working on her  
20 house?

21 A. Yes.

22 Q. Can you estimate of your landscaping work  
23 during that period what percentage was your sister's  
24 house?

25 A. About 95 percent.



Kensinger vs. CHP

Sean Kensinger

3/29/12

1 I, DONIELLE J. DEL CARLO, CSR No. 10476, a  
2 Certified Shorthand Reporter, do hereby certify:

3 That SEAN KENSINGER, the witness in the  
4 foregoing deposition, was duly sworn to testify the  
5 truth, the whole truth, and nothing but the truth in the  
6 within-entitled cause;

7 That said deposition was reported by me at  
8 the time and place therein stated and was thereafter  
9 transcribed as herein after set forth;

10 That, if signed, the deposition was read by  
11 or to said witness, corrected in every particular  
12 desired way, and was subscribed by said witness;

13 That, if unsigned, the deposition was  
14 retained by me at the office of DE SOUZA & ASSOCIATES  
15 and was available for reading, correcting and signing by  
16 said witness.

17 I further certify that I am not interested  
18 in the outcome of said action, nor connected with, nor  
19 related to any of the parties in said action or to their  
20 respective counsel.

21 IN WITNESS WHEREOF I have hereunto set by  
22 hand this 16th day of April, 2012.

23 Donielle J. Del Carlo

24 CERTIFIED SHORTHAND REPORTER  
25

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# EXHIBIT E

SUPERIOR COURT OF CALIFORNIA

COUNTY OF HUMBOLDT

HONORABLE MARILYN B. MILES, JUDGE

NO(S) . **CR1002750C**

oOo

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

**SEAN PATRICK KENSINGER,**

Defendant,

R E P O R T E R ' S

T R A N S C R I P T

O F

P R O C E E D I N G S

\* \* \*

**FRIDAY, MARCH 18, 2011**

\* \* \*

A P P E A R A N C E S

For the People:

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By: **ELAN FIRPO**  
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—Lori A. Rock, CSR# 12040—

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\* \* \*

1 Friday, March 18, 2011 -- 8:56 a.m.

2 o0o

3 (The following took place within the  
4 presence and hearing of the jury.)

5 THE COURT: People of the State of California versus  
6 Sean Patrick Kensinger, Case Number CR1002750C.

7 Good morning, ladies and gentlemen, and thank you for  
8 your patience. There was some civil matters that had to be  
9 attended to.

10 We'll ask counsel to state your appearances for the  
11 record, then, please.

12 MS. FIRPO: Elan Firpo for the People.

13 MR. BRUCE: Mark Bruce on behalf of Mr. Kensinger. He  
14 is present this morning.

15 THE COURT: Okay. All members of the jury and  
16 alternates are present.

17 We had left off with the cross-examination of Officer  
18 Goodwin.

19 THE WITNESS: Yes, ma'am.

20 THE COURT: You are still under oath.

21 THE WITNESS: Yes.

22 \* \* \*

23 GOODWIN, Officer Jeffrey,  
24 resumed the witness stand and  
25 testified further under oath:  
26

27 THE COURT: Mr. Bruce, then, we'll continue.

28 MR. BRUCE: Thank you, your Honor.

—Lori A. Rock, CSR# 12040—

1 THE WITNESS: Yes.

2 THE CLERK: Please state your full name for the record  
3 and spell your last name.

4 THE WITNESS: Carol Jean Sharp, S-H-A-R-P.

5 **DIRECT EXAMINATION**

6 **BY MS. FIRPO:**

7 Q. Good morning, Ms. Sharp. Thank you so much for your  
8 patience.

9 Ms. Sharp, are you familiar with any of the people in  
10 this case? Do you know Mr. Collins or Mr. Kensinger or  
11 Mr. Gardner?

12 A. No.

13 Q. And did you know any of the law enforcement officers?

14 A. No.

15 Q. Okay.

16 So, you have no relationship to anybody in this case.

17 Is that true?

18 A. No.

19 Q. Do you recall the events of December 5th, 2009?

20 A. Yes.

21 Q. At about approximately 5:10 in the evening that day --

22 A. It was dark.

23 Q. Okay.

24 A. And early evening. I'm not sure of the time.

25 Q. Okay.

26 And were you driving that day?

27 A. Yes.

28 Q. Where were you driving?

1 A. From McKinleyville back to Eureka.

2 Q. Okay.

3 While you were on US 101, did something catch your  
4 attention?

5 A. Yes, a pickup.

6 Q. And what specifically caught your attention about the  
7 pickup?

8 A. The pickup was swerving in and out of its lane.

9 Q. Okay.

10 Were you following behind the pickup?

11 A. Yes, behind.

12 Q. And how far did you follow behind the pickup? When did  
13 you first notice it?

14 A. I first noticed it just past Giuntoli Lane and I  
15 continued to follow, watching. You know, once or twice you  
16 might do that but it continued, so I called 9-1-1.

17 Q. Okay.

18 So, let's talk about the swerving a little bit. Was it  
19 swerving within the lane? Did they stay within the lines?

20 A. No. Didn't run off the road, but it would swerve over  
21 out of the line and then drift over to the other lane and  
22 swerve and drift back kind of.

23 Q. Okay.

24 So, there's a piece of paper right there (*pointing*) and  
25 some pens on the side. Maybe could you draw the lanes of the  
26 freeway and then use another color and draw how far outside the  
27 lanes the vehicle was going?

28 A. Okay. (*Witness complies.*)

1           Wasn't far out of the lane, but it was definitely, so.

2           Q.   So, going not off the road but onto the shoulder past  
3   the solid white line.

4           Is that true?

5           A.   Yes.

6           Q.   And then going into the lane next to it.

7           Is that what you are indicating there?

8           A.   He would change lanes. It wasn't just off and then  
9   over (*indicating*) but he would go off and then he changed a  
10   lane and then he go off that side.

11          Q.   Okay.

12          How long have you been driving, Ms. Sharp?

13          A.   Wow. Fifty years.

14          Q.   Okay.

15          Have you noticed this type of driving before very  
16   often?

17          A.   No. It was the first time.

18          Q.   Okay.

19          MS. FIRPO: At this time, I'd like to mark this as  
20   People's Exhibit No. 7, if I may approach?

21          THE COURT: Is that next in order?

22          MS. FIRPO: It is.

23                (*People's Exhibit No. 7, a Diagram, was marked*  
24                *for identification.*)

25   BY MS. FIRPO:

26          Q.   So, you stated a moment ago you decided to call 9-1-1.

27          A.   Yes.

28          Q.   Why did you decide to call 9-1-1?



1 A. Because I figured he was -- or the person -- I didn't  
2 see the person -- was impaired as they were driving somehow.

3 Q. Okay.

4 And did you have a safety concern, then?

5 A. Yes.

6 Q. And when you called 9-1-1, do you recall what you told  
7 them?

8 A. Probably said there's a drunk driver on the road. And  
9 she asked me where and by that time, we were close to the  
10 highway patrol office. And she asked if I had the license  
11 plate and I told her no, I wasn't close enough, and did it  
12 continue and it continued.

13 Q. Were you able to describe the vehicle other than a  
14 pickup?

15 A. Yeah, just a dark pickup.

16 Q. Okay.

17 Do you recall describing it as a Titan pickup?

18 MR. BRUCE: Objection. Leading.

19 THE COURT: That will be sustained.

20 BY MS. FIRPO:

21 Q. Would it refresh your recollection to look at the  
22 police report and see what you told the police?

23 A. Yes.

24 Q. So, the way this works, I'll show this to you and you  
25 read it to yourself and if it refreshes your recollection and  
26 you agree with it, then let us know.

27 A. *(Witness refers to report.)*

28 Okay. Yes.

1 Q. Thank you.

2 Do you recall describing the truck as a Titan?

3 A. Yes. I saw the name on the back of the truck.

4 Q. It was December 2009. It is a while ago.

5 A. Yes, it is.

6 Q. How far did you follow the pickup?

7 You stated you saw it at Giuntoli Lane. How far did  
8 you follow it?

9 A. All the way into Eureka. And it turned -- it was in  
10 the right lane and at that time, I thought, well, maybe I  
11 should take a look at this person. So, I pulled up on the left  
12 side and looked at the person and it was a guy. And then he  
13 turned off, so I went another block and turned and found where  
14 they had stopped.

15 Q. When you saw the person just before they turned, were  
16 you able to get a look at him at all?

17 A. Yes.

18 Q. And what did you see?

19 A. He had dark hair. Just regular looking, nothing  
20 unusual.

21 Q. So, could you see the color of his skin, the length of  
22 his hair?

23 A. Oh, white. Short, regular hair.

24 Q. And age approximately?

25 A. Twenties, you know. Mid/late 20. Young man.

26 Q. Okay.

27 So, you stated you turned right at the next  
28 intersection and caught up with them.

1 A. Yes.

2 Q. Okay.

3 I have something we were looking at yesterday that the  
4 police officer drew and it's marked as People's Exhibit 4. I'd  
5 like to show you this real quickly. Ms. Sharp, this is what  
6 the officer drew as the intersection where the Titan truck was  
7 stopped?

8 A. Yes.

9 Q. And if you'll see on the right-hand side about halfway  
10 up the paper, it says witness?

11 A. Uh-huh.

12 Q. That was meant to indicate your car?

13 A. Yeah. I might have been a little closer to the  
14 intersection but that general area.

15 Q. Okay.

16 So, when you found -- when you found the vehicle, when  
17 you found the truck, was the officer already on site?

18 A. I first noticed the three guys were out of the truck  
19 and then an officer walked up.

20 Q. Okay.

21 So, did you decide to pull over and stop?

22 A. Yes.

23 Q. Why did you decide to do that?

24 A. My reason for following them was in case they wanted to  
25 change drivers. And then I stopped just to see what was going  
26 on and then something was said and I decided to stay there and  
27 watch in case there was any unnecessary roughness by the  
28 police.

1 leave us alone. Come on, Man. What are you doing this for,  
2 and repeat those kinds of things.

3 Q. Okay.

4 So, those were the two on the ground.

5 Did you see a man standing up?

6 A. Yes, there was.

7 Q. And did you hear him say anything?

8 A. Not that I know of.

9 Q. Okay.

10 A. Yeah, I don't remember.

11 Q. Did you hear him at all yelling?

12 A. Not specifically.

13 Q. Okay.

14 So -- and I want to be clear, when you pulled up on the  
15 scene, the officer was already out of the car and the  
16 individuals were already laying on the sidewalk.

17 Is that what you are saying?

18 A. No. They were getting out of the pickup.

19 Q. Let's get back to the beginning and get all of this  
20 clear.

21 You pull up on the scene and they were out of the  
22 pickup?

23 A. Uh-huh.

24 Q. And the officer was there?

25 A. Yes. He was walking towards them.

26 Q. Why don't you tell me then what happened?

27 A. He told them to get down. Two of them did. One  
28 continued to walk on the sidewalk.

1       seen them driving and what had happened at the scene.

2           Q.    Okay.

3                So, you gave the officer a statement starting when you  
4       saw the driving?

5           A.    Yes.

6           Q.    Did you talk to the officer about what you saw when  
7       they were at the intersection?

8           A.    Yes.

9           Q.    Okay.

10               Ms. Sharp, at any point did you see any of the officers  
11       strike any of the individuals? Other than the taser and the  
12       taking down, did you see any force used?

13           A.    No. And I was kind of watching for it because I  
14       thought if they're going to do something, then that needed to  
15       be reported, as well.

16           Q.    Okay.

17                So, that was your particular interest --

18           A.    Uh-huh.

19           Q.    -- to watch for excessive force, that's true?

20           A.    Yeah.

21           Q.    Did you see if the officers had batons, those sticks  
22       that they are issued?

23           A.    I don't recall the baton.

24           Q.    If you were specifically looking for force, do you  
25       think you would have noticed one if one was used?

26                MR. BRUCE: Objection. Speculation.

27                THE COURT: That will be sustained as asked. You don't  
28       have to answer that.

1 SUPERIOR COURT OF CALIFORNIA

2 COUNTY OF HUMBOLDT

3 HONORABLE MARILYN B. MILES, JUDGE

4 NO(S) . CR1002750C

5 o0o

6  
7 PEOPLE OF THE STATE OF CALIFORNIA,

8 Plaintiff,

9 vs.

10 SEAN PATRICK KENSINGER,

11 Defendant,

12  
13 R E P O R T E R ' S

14 T R A N S C R I P T

15 O F

16 P R O C E E D I N G S

17 \* \* \*

18 WEDNESDAY, MARCH 23, 2011

19 \* \* \*

20  
21 A P P E A R A N C E S

22  
23 For the People:

24 Paul Gallegos  
25 District Attorney  
26 825 Fifth Street  
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27 By: ELAN FIRPO  
Deputy District Attorney

28 LORI A. ROCK, CSR# 12040

For the Defendant:

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McKinleyville, California  
95519

—Lori A. Rock, CSR# 12040—

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\* \* \*

1 \* \* \*

2 **SHARP, Carol Jean,**

3 resumed the witness stand and

4 testified further under oath:

5  
6 THE COURT: If could you state your name, again, for  
7 the record, please.

8 THE WITNESS: Carol Jean Sharp, S-H-A-R-P.

9 THE COURT: Ms. Sharp, I do remind you you are still  
10 under oath. You had not been excused. You are still under  
11 oath.

12 THE WITNESS: Yes.

13 THE COURT: Ms. Firpo, then.

14 **DIRECT EXAMINATION**

15 **BY MS. FIRPO:**

16 Q. Thank you, Ms. Sharp, for coming back. I just really  
17 have a couple questions for you.

18 The first one is about observing Mr. Kensinger's  
19 driving. He's testified for us that he was merely tired, he  
20 was sleepy and that halfway through the safety corridor, he  
21 realized he was swerving and he stopped.

22 Is that what you observed?

23 A. Stop swerving?

24 Q. Stopped swerving.

25 A. He did better when he was driving slower.

26 Q. But did the swerving stop?

27 A. I didn't -- I wasn't as close behind him. I held back.  
28 It appeared to me that nobody passed me. Everybody stayed



1 water, please?

2 Q. Sure.

3 So, I'll ask you just -- and, again, some of this is  
4 old ground. Why did you stay and watch?

5 A. I stayed and watched because I heard one of the men on  
6 the ground say don't kick me or why did you kick me, something  
7 about kicking. And the officer said, "I didn't kick you." And  
8 as far as I could tell, I did not see him kick him. He was  
9 walking towards him. He continued to walk. Then I thought --  
10 well, this may be. I'll just stay and watch in case the cops  
11 are rougher than they should be.

12 Q. Okay.

13 And so you stayed and watched for that purpose?

14 A. Yes.

15 Q. And were the cops rougher than they should be, in your  
16 personal opinion?

17 MR. BRUCE: I'm going to object. That -- I'll withdraw  
18 my objection.

19 THE WITNESS: I don't think so, no. I was pleased with  
20 the officers and how they handled it because these were loud-  
21 mouthed, cursing, belligerent, young men who weren't  
22 cooperating. They weren't fighting with them, but they weren't  
23 cooperating.

24 MS. FIRPO: Okay. Thank you. That's all I have.

25 THE COURT: Mr. Bruce, then.

26 MR. BRUCE: Thank you, your Honor.

27

28 ///

1 STATE OF CALIFORNIA )  
2 ) ss.  
3 COUNTY OF HUMBOLDT )  
4  
5

6 CERTIFICATE OF REPORTER  
7

8 I, LORI A. ROCK, a Certified Shorthand Reporter of the  
9 State of California, do hereby certify that the foregoing  
10 pages, numbered 1 to 212 and 343 to 427, inclusive, are a true  
11 and correct transcription of my shorthand notes taken on the  
12 17th, 18th, 22nd and 23rd days of MARCH, 2011, in the matter  
13 entitled PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, versus  
14 **SEAN PATRICK KENSINGER**, Defendant, No. **CR1002750C**, in the  
15 criminal files of the Superior Court of California, County of  
16 Humboldt.  
17  
18

19 Dated this 12TH day of OCTOBER, 2011.  
20

21 \_\_\_\_\_  
22 LORI A. ROCK  
23 Certified Shorthand Reporter #12040  
24  
25  
26  
27  
28

—Lori A. Rock, CSR# 12040—

**DECLARATION OF PERSONAL SERVICE**

Case Name: Sean Kensinger v. CHP et.al.

No.: C 11-00885

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004.

On May 3, 2012, I served the attached

1. NOTICE OF MOTIONS AND MOTIONS BY DEFENDANT JEFFREY GOODWIN FOR SUMMARY JUDGMENT AND BY DEFENDANTS PAUL CRAFT AND JEFFREY GOODWIN FOR PARTIAL SUMMARY JUDGMENT OF CERTAIN CLAIMS AND ITEMS OF DAMAGES
2. MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTIONS BY DEFENDANT JEFFREY GOODWIN FOR SUMMARY JUDGMENT AND BY DEFENDANTS PAUL CRAFT AND JEFFREY GOODWIN FOR PARTIAL SUMMARY JUDGMENT OF CERTAIN CLAIMS AND ITEMS OF DAMAGES
3. DECLARATION OF AMY LO IN SUPPORT OF MOTIONS FOR SUMMARY JUDGMENT AND FOR PARTIAL SUMMARY JUDGMENT OF CERTAIN CLAIMS AND ITEMS OF DAMAGES
4. DECLARATION OF JEFFREY GOODWIN IN SUPPORT OF MOTIONS FOR SUMMARY JUDGMENT AND FOR PARTIAL SUMMARY JUDGMENT OF CERTAIN CLAIMS AND ITEMS OF DAMAGES
5. DECLARATION OF EMILY KERAM IN SUPPORT OF MOTIONS FOR SUMMARY JUDGMENT AND FOR PARTIAL SUMMARY JUDGMENT OF CERTAIN CLAIMS AND ITEMS OF DAMAGES
6. DECLARATION OF PAUL CRAFT IN SUPPORT OF MOTIONS FOR SUMMARY JUDGMENT AND FOR PARTIAL SUMMARY JUDGMENT OF CERTAIN CLAIMS AND ITEMS OF DAMAGES
7. DECLARATION OF JARED ZWICKEY IN SUPPORT OF MOTIONS FOR SUMMARY JUDGMENT AND FOR PARTIAL SUMMARY JUDGMENT OF CERTAIN CLAIMS AND ITEMS OF DAMAGES
8. [PROPOSED] ORDER GRANTING MOTIONS BY DEFENDANT JEFFREY GOODWIN FOR SUMMARY JUDGMENT AND BY DEFENDANTS PAUL CRAFT AND JEFFREY GOODWIN FOR PARTIAL SUMMARY JUDGMENT OF CERTAIN CLAIMS AND ITEMS OF DAMAGES GOODWIN

May 3, 2012

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Sean Kensinger v. CHP et.al.

MSJ

by personally delivering a true copy thereof to the following person(s) at the address(es) as follows:

**James Y. Higa**  
**HIGA & GIPSON, LLP**  
**71 Stevenson St., 4th fl.**  
**San Francisco, CA 94105**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on May 3, 2012, at San Francisco, California.

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Anh Ho  
Declarant

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/s/ Anh Ho  
Signature

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20599998